

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

ANTONIO SHANKLIN (#1196923),

FILED

OCT - 3 2018

CLERK, US DISTRICT COURT
NORFOLK, VA

Petitioner,

v.

ACTION NO. 2:18cv143

HAROLD W. CLARKE,
Director of the Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254.

The petition alleges violation of federal rights pertaining to Petitioner's convictions for first degree murder, principal in the second degree and use of a firearm in committing a felony, in the Circuit Court of Westmoreland County. As a result of the convictions, Petitioner was sentenced to serve twenty-three years in prison.

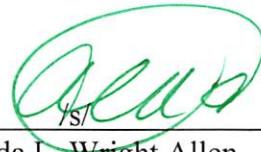
The matter was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation was filed on July 13, 2018, and recommends dismissal of the petition. ECF No. 19. Each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge. On September 17, 2018, the Court received Petitioner's Objections to the Report and Recommendation. ECF No. 25. The Respondent filed no response to the objections and the time for responding has now expired.

The Court, having reviewed the record and examined the objections filed by Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, adopts and approves the findings and recommendations set forth in the Report and Recommendation filed July 13, 2018. It is, therefore, ORDERED that Respondent's Motion to Dismiss (ECF No. 14) is GRANTED and Petitioner's petition (ECF No. 1) is DENIED and DISMISSED with prejudice.

Petitioner is hereby notified that he may appeal from the Judgment entered pursuant to this Final Order by filing a Notice of Appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right. Therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 123 S. Ct. 1029, 1039 (2003).

The Clerk is directed to mail a copy of this Final Order to Petitioner and to provide an electronic copy of the Final Order to counsel of record for Respondent.

A handwritten signature in black ink, enclosed in a green oval. The signature reads "Arenda L. Wright Allen". Below the signature, the letters "/S/" are written, indicating a signature.

Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia

Oct 3, 2018